Public Health Appeal Board

Annual Report 2004

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ALBERTA
HEALTH AND WELLNESS

Office of the Minister

105-07648/

April 2005

The Honourable Ken Kowalski, M.L.A.
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

I have the honour to present the annual report of the Public Health Appeal Board for the year January 01, 2004 to December 31, 2004.

Sincerely yours,

Iris Evans
Minister

Legislature Building, Edmonton, Alberta, Canada T5K 2B6 Telephone 780/427-3665 Fax 780/415-0961

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Alberta
HEALTH AND WELLNESS

PUBLIC HEALTH APPEAL BOARD

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2005 Alberta Centennial

April 2005

The Honourable Iris Evans
Minister of Health & Wellness
107 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Minister Evans:

I have the honour and privilege to present the annual report of the Public Health Appeal Board for the year January 01, 2004 to December 31, 2004.

Respectfully submitted,

William J. Love, Chairman
Public Health Appeal Board

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Public Health Appeal Board Members

William Love (Calgary)
Chair
Mr. Love is an independent insurance broker and consultant. He is a past chair of the Board of Examiners for Certified Dental Mechanics (1993 – 2002). He volunteers for church and community organizations.

Sharon Cox (High Prairie)
Alternate Vice-chair
Ms. Cox runs a mixed farming operation with her children and is a former registered nursing assistant. She is a past chairperson for the Keeweetinok Lakes Regional Health Authority (1994 – 2001). She enjoys volunteering for various community groups.

Marvie Kenny (Oyen)
Member
Ms. Kenny is a retired dental hygienist and partner in a grain farming operation. She also volunteers for various community organizations.

William (Bill) Steinburg (Spruce Grove)
Member
Mr. Steinburg was recently re-elected alderman of the city of Spruce Grove. He previously served as mayor and alderman (1983 - 1992) at which time he presented "Putting the House in Order" to the Alberta Municipalities Association Conference. He holds a degree of Bachelor of Health Services Administration and is a medical radiation technologist. Bill is a health care consultant and has a background in finance administration and capital projects. He presented one of the first automated computerized equipment assessment programs for use in tendering diagnostic imaging equipment, which was published at the 12th Symposium for Computer Assisted Radiology in Winston Salem, North Carolina. He is a volunteer board member with Neighbourlink Parkland in Spruce Grove, which is aligned with World Vision Neighbourlink Canada.

Robert Lea (Edmonton) March 6, 2002 – October 19, 2004
Vice-chair
Mr. Lea is a planner and internal auditor for a large Alberta public school board. He possesses in excess of 20 years senior financial and administrative experience in healthcare from previous positions. He is active in numerous community activities. Mr. Lea resigned October 19, 2004.

Margaret Niehaus – (Edmonton)
Administrative Assistant/Coordinator

Background

The Public Health Appeal Board (The Board) was established February 03, 1999 under the amended *Alberta Public Health Act*. The new Public Health Appeal Board replaced the former Public Health Advisory and Appeal Board established in 1985.

The board is subject to general rules of administrative law and natural justice as they apply to quasi-judicial tribunals. Donald R. Cranston, Q.C., of the law firm Bennett Jones LLP provides the board with independent legal counsel.

Duties

The Public Health Appeal Board is a panel of not more than five members appointed by the Lieutenant Governor in Council. The mandate of the Public Health Appeal Board is to hear appeals from individuals who have been directly affected by decisions of regional health authorities (RHA).

The board may call upon technical experts and professionals to assist and provide them with specific knowledge in areas related to the appeal. At the completion of the appeal, the board gives written notice of their decision. This may:

- confirm, reverse or vary the decision of the RHA or
- refer the matter back to the RHA for further consideration.

PUBLIC HEALTH APPEAL BOARD
2004 APPEAL APPLICATIONS – HEARING – DISPOSITIONS

Regional Health Authority	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Chinook Regional Health Authority	Nil	n/a	n/a	n/a	n/a
Palliser Health Region	Nil	n/a	n/a	n/a	n/a
Calgary Health Region	Nil	n/a	n/a	n/a	n/a
David Thompson Regional Health Authority	Nil	n/a	n/a	n/a	n/a
East Central Health	Nil	n/a	n/a	n/a	n/a
Capital Health	07/2003 *	06/30/2003		Varied	Time for compliance to Order was extended
	01/2004	01/16/2004	Withdrawn		
	04/2004	04/01/2004	Withdrawn		
	05/2004	04/07/2004			File closed
	08/2004	07/30/2004		Varied	Allowed tenants access to housing facility
	09/2004	07/30/2004		Varied	Allowed tenants access to housing facility
	10/2004	08/06/2004		Upheld	
	11/2004	08/26/2004	Withdrawn		
	12/2004	09/07/2004	Withdrawn		
	13/2004	09/09/2004		Upheld	
	14/2004	09/06/2004		Upheld	
	15/2004	09/24/2004	Withdrawn		
	16/2004	11/22/2004		Upheld	
	17/2004	12/02/2004			Hearing to be held 2005
Aspen Regional Health Authority	Nil	n/a	n/a	n/a	n/a
Peace Country Health	02/2004	02/04/2004		Upheld	
	03/2004	02/07/2004	n/a	Upheld	
	06/2004	07/02/2004	Withdrawn		
	07/2004	07/19/2004		Varied	Excluded items 4 & 5 from Order
Northern Lights Health Region	Nil	n/a	n/a	n/a	n/a

* Appeal filed for judicial review application

Appeal Activities and Summaries

The following is a summary of all appeals or applications received and/or heard by the Public Health Appeal Board from January 01, 2004 to December 31, 2004:

07/2003
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* requiring the owner to correct the size of openings between balusters in the residential apartment.

Hearing held February 9 & 10, 2004 and April 21, 2004
The board upheld the order issued by the executive officer of Capital Health and extended the time to comply with the order. The appellant was required to correct the condition identified in the order to the satisfaction of an executive officer of the Capital Health Region.

01/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* requiring the owner to repair or replace windows and security bars in order to ensure proper egress of the building.

The appellant withdrew the appeal.

02/2004
Order issued by Executive Officer of Peace Country Health

Appeal of two orders of an executive officer of Peace Country Health under Section 62 of the *Public Health Act,* declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held April 14, 2004
The board upheld the orders issued by the executive officer of the Peace Country Health. The appellant was required to vacate the premises.

03/2004
Order issued by Executive Officer of Peace Country Health

Appeal of two orders of an executive officer of Peace Country Health under Section 62 of the *Public Health Act,* declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held April 14, 2004
The board upheld the orders issued by the executive officer of the Peace Country Health. The appellant was required to vacate the premises.

04/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* requiring the owner to correct the size of bedroom windows in the housing units of the residential developments.

Capital Health amended this order regarding timelines and the appellant complied. The appeal was withdrawn.

05/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupant to vacate the premises.

The appellant submitted a Notice of Appeal but did not proceed with the appeal. The file was closed.

06/2004
Order issued by Executive Officer of Peace Country Health

Appeal of the order of an executive officer of Peace Country Health under Section 62 of the *Public Health Act,* declaring the premises unfit for human habitation and requiring the tenant to vacate the premises.

The appellant withdrew the appeal.

07/2004
Order issued by Executive Officer of Peace Country Health

Appeal of the order of an executive officer of Peace Country Health under Section 62 of the *Public Health Act*, requiring the owner to repair a number of conditions and the occupants to vacate the premises by a certain date.

Hearing held August 31, 2004
The board varied the order issued by the executive officer of the Peace Country Health by reversing the requirement to provide a written inspection report or documentation.

08/2004
Order issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held August 18, 2004
The board upheld the orders issued by the executive officer of Capital Health. The premises must remain vacant until repairs are performed to the satisfaction of Capital Health. However, the premises may be entered to perform remedial work or to obtain personal belongings.

09/2004
Order issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held August 18, 2004
The board upheld the orders issued by the executive officer of Capital Health. The premises must remain vacant until repairs are performed to the satisfaction of Capital Health. However, the premises may be entered to perform remedial work or to obtain personal belongings.

10/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held October 6, 2004
The board upheld the orders issued by the executive officer of Capital Health. The tenants are to vacate the premises and the premises are to remain vacant until the appellant corrects the conditions identified in the order to the satisfaction of an executive officer of Capital Health.

11/2004
Order issued by Executive Officer of Capital Health

Appeal two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

The appellant withdrew the appeal.

12/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring a composting system in contravention of the Nuisance and General Sanitation Regulation and requiring the occupant to stop accepting waste, to reduce the piles of waste and to follow Alberta Environmental Codes of Practice.

The appellant and Capital Health worked together to resolve the issue. Thus the appellant withdrew the appeal.

13/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the occupants to vacate the housing premises.

Hearing held October 13, 2004
The board upheld the order issued by the executive officer of Capital Health. The appellant was to correct the conditions to meet the Minimum Housing and Health Standards required for rental facilities.

14/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* requiring the occupants to vacate the housing premises until corrections were made as outlined in the order.

Hearing held October 13, 2004
The board upheld the order issued by the executive officer of Capital Health. The appellant was to correct the conditions to meet the Minimum Housing and Health Standards required for rental facilities.

15/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the owner to repair a number of conditions or to have the premises remain vacant.

The appellant withdrew the appeal.

16/2004
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to repair a number of conditions by a specified date.

Hearing held December 8, 2004.
The board upheld the order issued by the executive officer of Capital Health. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of the Capital Health Authority.

17/2004
Order issued by Executive Officer of Capital Health

Appeal of an order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* requiring the owner to ensure guard rails for all balconies are maintained in good repair and safe condition.

The hearing is scheduled to be heard January 19, 2005.

Other Activities

Board members attended educational courses provided through **The Foundation of Administrative Justice**. The courses provided a valuable overview of essential practices and components of conducting administrative hearings. The Board believes that attending courses of this nature are essential to ensuring fairness and credibility in decision making.

Canada Health Protection Act

Board members reviewed the Canada Health Protection Act forwarding their comments to the Minister of Alberta Health and Wellness and Health Canada.

The chair joined the **Council of Canadian Administrative Tribunals** and attended their conference in Toronto June 20 – 23, 2004. This conference offered the opportunity to network with peers and learn from the experience of other tribunals and the legal/quasi-judicial issues within the country.

Application to the Court of Queen's Bench of Alberta Health

On August 6, 2004 legal counsel for the Appellant of Appeal 07/2003 filed a judicial review application in the Court of Queen's Bench of Alberta seeking review of the Board's decision. The application was heard before Madam Justice Acton of the Court of Queen's Bench of Alberta on December 9, 2004 at which time she reserved her decision.